



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2018-0321; FRL-8888-01-OCSPP]

Chemical Data Reporting; Guidance for Preparing and Submitting a Petition; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comment on guidance on the processes applicable to the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations: Petitions for full exemption of byproduct substances that are recycled or otherwise used within site-limited, physically enclosed systems and Petitions for partial exemption of chemicals for which the CDR processing and use information has been determined to be of “low current interest” by the Agency. This guidance is designed to elucidate the process and requirements of CDR-specific petitions and is consistent with both existing regulations and guidance. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on the manufacturing, processing, and use of the chemical substances.

DATES: Comments must be received on or before **[INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2018-0321, using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at

<https://www.epa.gov/dockets/about-epa-dockets>.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Thomas Smith, Data Gathering and Analysis Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-7200; email address: smith.thomasa@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (including import) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to represent each industry sector or entity to which the guidance mentioned herein applies. The list is intended to serve as a guide to help readers determine whether the guidance applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, e.g., chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, e.g., utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. What Action is the Agency Taking?

EPA is announcing the availability of guidance on the two petition processes applicable to the TSCA CDR regulations and soliciting public comment on the guidance. The guidance covers petitions for:

- Full exemption of byproduct substances that are recycled or otherwise used within site-limited, physically enclosed systems (40 CFR 711.10(d)(1)) and
- Partial exemption of chemicals for which the CDR processing and use information has been determined to be of “low current interest” by the Agency (40 CFR 711.6(b)(2)).

The public comment period will be open for 120 days, but the public may consult this guidance immediately. These comments will be taken into consideration when determining if updating the guidance is appropriate as part of EPA’s efforts of continuous improvement.

The CDR data include information on the manufacture (including import), industrial processing and use, and consumer and commercial use of certain chemicals currently included on the TSCA Inventory, a list of chemical substances manufactured or processed in the United States for nonexempt commercial purpose. Manufacturing, processing, and use information helps

EPA screen and assess potential exposures to and risks of reported chemicals to human health and the environment. Certain chemicals for which processing and use information has been determined to be of “low current interest” by the Agency are partially exempted from reporting, and manufacturers of these chemicals are not required to provide information on the processing and use of their chemicals (only information on manufacturing (including import) is required). Additionally, certain chemicals, when produced as byproducts, may be fully exempted from reporting depending on how they are manufactured, processed, or used. Two separate petition processes exist for making amendments to the list of partially exempt chemical substances (40 CFR 711.6(b)(2)(iv)) or the list of processes and certain related byproduct substances (40 CFR 711.10(d)(1)(i)) that are fully exempted when they are recycled or otherwise used within site-limited, physically enclosed systems.

The primary goal of this guidance is to help the regulated community comply with the CDR rule requirements in relation to its applicable petition processes. This guidance identifies and clarifies examples of the types of information submitters can provide to the Agency in support of petitions for full or partial exemption from CDR rule requirements. This guidance is expected to make the requirements and process of submitting a CDR-specific petition more comprehensible, enabling petitioners to determine if a petition is appropriate and to better provide a petition containing the information needed for EPA to reach a determination. Ultimately, this guidance will help both parties to better meet regulatory deadlines associated with petition submission and response.

The byproduct exemption petition process was established as part of the CDR Revisions rulemaking of 2020 and the partial exemption petition process has been available since the Inventory Update Rule (IUR) Amendments rulemaking of 2003. The IUR is the predecessor to the CDR. During the Office of Management and Budget (OMB)-led interagency review for the CDR Revisions Rule, EPA agreed to make guidance particular to the new byproduct petition process available to help potential petitioners understand the types of information that a petition

should include and to facilitate EPA's determination of whether certain types of manufacturing processes and associated byproduct substances meet the criteria of this exemption. The guidance was requested by OMB and by some commenters during the associated public comment period (e.g., in the docket, see the document entitled: "Response to Public Comments on the Final TSCA Chemical Data Reporting (CDR) Revisions Rule," dated February 2020).

The information in this guidance is similar to and expands upon information that has already been available on the CDR website for the existing partial exemption petition process (40 CFR 711.6(b)(2)). Given that the new byproduct exemption petition process was modeled in part after the existing partial exemption petition process, EPA decided to have the guidance cover both petition processes.

III. Does this Guidance Document Contain Binding Requirements?

As guidance, this document is not binding on the Agency or any outside parties, and the Agency may depart from it where circumstances warrant and without prior notice. While EPA has made every effort to ensure the accuracy of the discussion in the guidance, the obligations of EPA and the regulated community are determined by statutes, regulations, or other legally binding documents. In the event of a conflict between the discussion in the guidance document and any statute, regulation, or other legally binding document, the guidance document will not be controlling.

IV. Is this Guidance Subject to the Paperwork Reduction Act (PRA)?

This action does not contain any new or revised information collections or burden subject to additional OMB approval under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). Information collection activities contained in CDR are already approved by OMB under OMB Control No. 2070-0162 (EPA ICR No. 1884).

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control

numbers for EPA's regulations in Title 40 of the CFR, after appearing in the *Federal Register*, are listed in 40 CFR part 9, and included on the related collection instrument, or form, as applicable.

The public reporting and recordkeeping burden associated with the submission of a petition under the CDR regulation is estimated to be 1 hour per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form, petition or other information to this address.

(Authority: 15 U.S.C. 2607(a))

Dated: August 16, 2021.

Michal Freedhoff,

Assistant Administrator,

Office of Chemical Safety and Pollution Prevention.

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